IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5302 OF 2005

Ramdas Pundlik Shinde .. Petitioner.
Vs.
Akshay Surendra Shinde & Ors. .. Respondents.

Mr.Satyajit Mirajkar for the petitioner.
Ms.Seema Sarnaik for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 12TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent nos.1 and 2.

2. This petition is directed against the order dated 12th July, 2005 by which the trial Court has rejected the application filed by the petitioner-defendant no.8 for setting aside "No W.S." order. Admittedly, the application for setting aside "No W.S." order was filed after 5 1/2 years. I perused the application and in particular paragraph 3 thereof, wherein the petitioner has stated, he did not know that written statement was required to be filed in the suit till 5.7.2005. I perused the roznama which shows that the petitioner had engaged an advocate in September, 1998 and thereafter the

advocate for the petitioner sought time to file written statement on several occasions. The ground mentioned in the application for setting aside "No W.S." does not appear to be correct. I am told that the plaintiff has already closed his evidence and the other defendants have started examining their witness. The petitioner has purchased the property from defendant no.2 and 3, members of the joint family. The suit has been filed by the respondent-plaintiff for partition and separate possession of his share. Defendant Nos.2 and 3 have already filed written statement on record. Keeping that in view and considering the overall facts and circumstances of the case I see no reason to show any indulgence to the petitioner. In my opinion, the trial Court has rightly rejected the application which deserves no interference by this Court under Article 227 of the Constitution of India. The writ petition is dismissed.

(D.B.Bhosale, J.)